

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to statement furnishment deadlines

The Revenue Department hereby amends Chapter 46, “Withholding,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 421.14, 422.16 and 422.68.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 422.16.

Purpose and Summary

In the July 31, 2019, Iowa Administrative Bulletin, the Department proposed a rule making (i.e., Notice of Intended Action, **ARC 4561C**) to amend Chapter 46. That rule making is related to new electronic filing requirements for W-2 forms and 1099 forms and was subsequently adopted and filed and published in the Iowa Administrative Bulletin (**ARC 4678C**, IAB 9/25/19, effective 10/30/19). One purpose of that rule making was to move the annual deadline for filing Verified Summary of Payments Reports, W-2 forms, and 1099 forms with the Department from January 31 to February 15. It was not the intent of the Department to attempt to disregard the annual January 31 deadline by which a withholding agent or employer must furnish statements to employees, nonresidents, or other persons, as described in Iowa Code section 422.16(7)“a.” However, that rule making’s amendment to subparagraph 46.3(3)“d”(3) may have given that appearance.

This rule making clarifies that the annual deadline under Iowa Code section 422.16(7)“a” remains January 31. This rule making also corrects a typographical error in subparagraph 46.3(3)“d”(2) and updates subparagraph 46.3(3)“e”(1) by removing a reference to a rescinded subrule, replacing references to certain credits, and making a stylistic change. Lastly, this rule making clarifies that the withholding agents’ electronic filing requirement applies for all 1099 forms and W-2 forms for persons from whom Iowa income tax was withheld.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 23, 2020, as **ARC 5183C**. The Department received one comment on the proposed rule making. The commenter expressed concern with altering the date for filing withholding forms and reports to the Department. After reviewing the comment, the Department determined that no further changes to the proposed rule making were necessary. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on February 19, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on April 14, 2021.

The following rule-making action is adopted:

Amend paragraphs **46.3(3)“d”** to **“g”** as follows:

d. Reports for employee.

(1) General rule. Every employer required to deduct and withhold tax from compensation of an employee must furnish to each employee with respect to the compensation paid in Iowa by such employer during the calendar year, a statement containing the following information: the name, address, and federal employer identification number of the employer; the name, address, and social security number of the employee; the total amount of compensation paid in Iowa; and the total amount deducted and withheld as tax under subrule 46.1(1).

(2) Form of statement. The information required to be furnished to an employee under the preceding paragraph shall be furnished on an Internal Revenue Service combined Wage and Tax Statement, Form W-2, hereinafter referred to as “combined W-2.” Any reproduction, modification or substitution for a combined W-2 by the employer must be approved by the department. Employers should keep copies of the combined W-2 for four years from the end of the year for which the combined W-2 applies.

(3) Time for furnishing statement. Each statement required by paragraph “d” to be furnished for a calendar year and each corrected statement required for any prior year shall be furnished to the employee on or before ~~February 15~~ January 31 of the year succeeding such calendar year, or if an employee's employment is terminated before the close of a calendar year without expectation that it will resume during the same calendar year, within 30 days from the day on which the last payment of compensation is made, if requested by such employee, but not later than January 31 of the following year. See paragraph 46.3(3)“e” for provisions relating to the filing of copies of the combined W-2 with the department of revenue, and see subparagraph 46.3(3)“f”(1) for the provision relating to filing W-2 forms with the department for tax year 2019 and all subsequent tax years.

(4) Corrections. An employer must furnish a corrected combined W-2 to an employee if, after the original statement has been furnished, an error is discovered in either the amount of compensation shown to have been paid in Iowa for the prior year or the amount of tax shown to have been deducted and withheld in the prior year. Such statement shall be marked “corrected by the employer.” See paragraph 46.3(3)“e” for provisions relating to the filing of a corrected combined W-2 with the department.

(5) Undelivered combined W-2. Any employee's copy of the combined W-2 which, after reasonable effort, cannot be delivered to an employee shall be transmitted to the department with a letter of explanation.

(6) Lost or destroyed. If the combined W-2 is lost or destroyed, the employer shall furnish a substitute copy to the employee. The copy shall be clearly marked “Reissued by Employer.”

e. Annual verified summary of payments reports.

(1) Every withholding agent required to withhold Iowa income tax under subrules 46.1(1), 46.1(2), 46.1(3), and 46.4(1) is to furnish to the department of revenue on or before February 15 following the tax year an annual Verified Summary of Payments Report (VSP).

The withholding agent completing the VSP form must enter the total Iowa income tax withheld that is shown on the W-2 forms and 1099 forms for the year, the new jobs credits, supplemental new jobs credits, accelerated career education credits and ~~housing assistance~~ targeted jobs credits claimed on withholding returns for the year. In addition, the withholding agent must enter on the VSP the withholding payments made for the year. If the amount of Iowa income tax withholding remitted to the department of revenue for the year is less than the withholding tax and withholding credits claimed, the withholding agent is to report the additional withholding tax due on an amended return and submit payment to the department.

If the Iowa income tax shown as withheld on the ~~W-2s~~ W-2 forms and ~~1099s~~ 1099 forms issued for the tax year is less than the amount of withholding tax remitted to the department of revenue by the withholding agent, the agent should file an amended return with the department reflecting the excess tax paid.

(2) For ~~Verified Summary of Payments Report~~ VSP forms filed with the department of revenue for the year 2000 through the year 2016, the withholding agents are not to submit W-2 forms and 1099 forms with the reports. However, the withholding agents should supply W-2 forms or 1099 forms as requested by personnel of the department of revenue if the request for the forms is made within three years from the end of the year for which the W-2 forms or 1099 forms apply. Therefore, if a request is made to a withholding agent for a W-2 form or a 1099 form for the year 2013, the request is valid if the request is postmarked, faxed or made on or before December 31, 2016.

(3) Penalty. Failure to meet the filing requirements set out in this paragraph will subject withholding agents to the penalties under Iowa Code section 422.16(10).

f. W-2 forms.

(1) For tax year 2019 and all subsequent tax years, all withholding agents are required to electronically file W-2 forms for employees from whom Iowa income tax was withheld with the department of revenue on or before February 15 following the tax year.

(2) The department of revenue may, in a case involving a hardship, extend the requirement to electronically file to the 2020 tax year. No extension of time shall be granted unless the withholding agent makes a written request to the department of revenue for such action.

(3) Penalty. Failure to meet the filing requirements set out in this paragraph will subject withholding agents to the penalties under Iowa Code section 422.16(10).

g. 1099 forms and W-2G forms.

(1) For tax year 2019 and all subsequent tax years, all withholding agents are required to electronically file all 1099 forms and W-2G forms for persons from whom Iowa income tax was withheld on or before February 15 following the tax year.

(2) The department of revenue may, in a case involving a hardship, extend the requirement to electronically file to the 2020 tax year. No extension of time shall be granted unless the withholding agent makes a written request to the department of revenue for such action.

(3) Penalty. Failure to meet the filing requirements set out in this paragraph will subject withholding agents to the penalties under Iowa Code section 422.16(10).

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/21.